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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,850	02/07/2005	Thomas John	3208	4407

7590  
Striker Striker & Stenby  
103 East Neck Road  
Huntington, NY 11743

EXAMINER
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NGUYEN, PHONG H

ART UNIT	PAPER NUMBER
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3724

MAIL DATE	DELIVERY MODE
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08/06/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 10/523,850	<b>Applicant(s)</b> JOHN ET AL.	
	<b>Examiner</b> PHONG H. NGUYEN	<b>Art Unit</b> 3724	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 20 July 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: 29-35.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
 13. ☐ Other: \_\_\_\_\_.

/Phong H Nguyen/  
 Examiner, Art Unit 3724  
 August 3, 2009

Continuation of 11. does NOT place the application in condition for allowance because:

The Applicant argues that Frederick does not teach steps a-g. This argument is not persuasive. The glass sheet 12 being continuously moving in a travel direction (indicated by the arrow in Fig. 1) of step (a) and the cutting tool 16 being moving across the travel direction of step (b) are best seen in Fig. 1 and col. 4, lines 14-28.

Regarding step (c), the cutting tool 16 is moving across the glass sheet 12 over different regions having different thickness (see col. 1, lines 4-13, well known in the art and evidenced by Bier) and the cutting tool 16 applies different cutting force (col. 4, lines 28-col. 5, line 4).

Regarding step (d), since the glass sheet has different thickness (well known in the art and evidenced by Bier), and the intensity of the sound depends on the thickness of the glass sheet (col. 5, lines 5-15); Frederick is considered to read on step (d) when the sound receiving device is moving across the glass sheet.

The Applicant argues that Frederick teaches measuring an average or overall thickness of the glass sheet but not measuring the thickness of the glass sheet as a function of location. This argument is not persuasive. Step (d) does not positively recite measuring the thickness of the glass sheet as a function of location. Therefore, Frederick reads on step (d).

The Applicant argues that Frederick's sound receiving device cannot pick up small variations in glass sheet thickness. This argument is not persuasive. The Applicant needs to provide more evidences so that the Examiner can decide whether Frederick's sound receiving device can or cannot pick up small variations in glass sheet thickness.

The Applicant argues that Frederick does not teach step (d). This argument is not persuasive. It is well known in the art and evidenced by Bier and Frederick (col. 1, lines 5-8) that the glass sheet has different thickness. Also it is known that the intensity of the sound depends on the thickness of the glass sheet (col. 5, lines 5-15). Therefore, when the cutting tool moves across the glass, the sound receiving device mounted on the cutting tool receives different intensity of the sound. Consequently, the sound receiving device is considered to measuring the glass sheet thickness locally.

Regarding step (e), when the cutting tool is moving across the glass sheet, different cutting forces are applied on the glass sheet depending on its thickness (col. 2, lines 35-39). The Applicant argues that Frederick does not teach step (e). This argument is not persuasive. The cutting tool is provided with a biasing means. When the cutting tool enters a region of the glass sheet having a thicker thickness, the biasing means is compressed by the thickness of the glass sheet and thus applies a greater cutting force. When the cutting tool enters a region of the glass sheet having a thinner thickness, the biasing means is not compressed by the thickness of the glass sheet and thus applies a lesser cutting force.

Regarding step (f) in claim 34, the Applicant argues that Frederick does not teach step (f). This argument is not persuasive. The cutting tool is provided with a biasing means. When the cutting tool enters a region of the glass sheet having a thicker thickness, the biasing means is compressed by the thickness of the glass sheet and thus applies a greater cutting force. When the cutting tool enters a region of the glass sheet having a thinner thickness, the biasing means is not compressed by the thickness of the glass sheet and thus applies a lesser cutting force.